

011852,390


**UNITED STATES DEPARTMENT OF COMMERCE  
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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
077852,390	03/16/92	WILSON	1-882A-2

NOLAN, S EXAMINER

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ART UNIT	PAPER NUMBER
1805	4

DATE MAILED:

05/11/92

 This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined *for restriction purposes only* ☐ Response to communication filed on 3-16-92 ☐ This action is made final.

 A shortened statutory period for response to this action is set to expire 30 month(s), 30 days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133
**Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:**

- |   |   |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892.        | 2. <input checked="" type="checkbox"/> Notice re Patent Drawing, PTO-948.       |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449.             | 4. <input type="checkbox"/> Notice of Informal Patent Application, Form PTO-152 |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> <u>dk</u>   |

**Part II SUMMARY OF ACTION**
 1. ☒ Claims 39-60 are pending in the application.

Of the above, claims \_\_\_\_\_ are withdrawn from consideration.

 2. ☒ Claims 1-38 have been cancelled.

 3. ☐ Claims \_\_\_\_\_ are allowed.

 4. ☐ Claims \_\_\_\_\_ are rejected.

 5. ☐ Claims \_\_\_\_\_ are objected to.

 6. ☒ Claims 39-60 are subject to restriction or election requirement.

 7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

 8. ☐ Formal drawings are required in response to this Office action.

 9. ☐ The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).

 10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).

 11. ☐ The proposed drawing correction, filed \_\_\_\_\_, has been ☐ approved; ☐ disapproved (see explanation).

 12. ☐ Acknowledgement is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.

 13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

 14. ☐ Other

EXAMINER'S ACTION

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Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 39-47 and 50-60, drawn to DNA sequences, vectors and use of the vectors for selectable markers, classified in Class 435, subclass 172.3, for instance.

II. Claims 48 and 49, drawn to probes and methods of hybridization, classified in Class 436, subclass 501.

The inventions are distinct, each from the other because of the following reasons:

Inventions of Group I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP 806.05(h)). In the instant case the product as claimed can be used in a materially different process such as for production of recombinant proteins in transformed cells.

Because these inventions are distinct for the reasons given above and have acquired as separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

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A telephone call was made to Mr. John Schneller on 5-6-92 to request an oral election to the above restriction requirement, but did not result in an election being made.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Nolan whose telephone number is (703) 308-0281. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

SHARON L. NOLAN  
PATENT EXAMINER  
GROUP 180

*S. L. Nolan*  
5-6-92